

**Introduced by Senators Ducheny and Cedillo**

February 24, 2006

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An act to amend Sections 65300, 65302, 65582, 65583, 65583.2, 65584, 65584.01, 65584.02, 65584.04, and 65584.07 of, to add Sections 16318, 16319, 16319.5, and 65300.1 to, to add Article 9 (commencing with Section 65470) to Chapter 3 of Division 1 of Title 7 of, and to repeal and add Section 65588 of, the Government Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

SB 1800, as introduced, Ducheny. General plans: housing.

Existing law requires each planning agency to prepare, and the legislative body of each county and city to adopt, a comprehensive, long-term general plan for the physical development of the county or city. The general plan consists of various elements, including a housing element. The housing element consists, in part, of an identification and analysis of existing and projected housing needs in the community and the community's share of regional housing needs, and is to be periodically revised.

This bill would require the legislative body of a local agency, as defined, to adopt the general plan, would define the term "long-term," with respect to the general plan, and would require the local government at the same time it revises its housing element to adopt a housing opportunity plan, as described, as a part of the housing element, thereby imposing a state-mandated local program. The bill would establish the Housing Opportunity Plan Fund, to be administered by the Pooled Money Investment Board. Upon appropriation by the Legislature, moneys in the fund shall be used for the purpose of providing loans from the Pooled Money Investment Account to cities, counties, and cities and counties to prepare and

adopt plans that provide housing pursuant to the housing opportunity plans. The bill would revise procedures for the adoption of local and regional housing needs, and would make related and conforming changes.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement shall be made pursuant to these statutory provisions for costs mandated by the state pursuant to this act, but would recognize that local agencies and school districts may pursue any available remedies to seek reimbursement for these costs.

Vote: majority. Appropriation: yes. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 16318 is added to the Government  
2 Code, to read:

3 16318. There is hereby established in the State Treasury the  
4 Housing Opportunity Plan Revolving Fund, to be administered  
5 by the Pooled Money Investment Board. Upon appropriation by  
6 the Legislature, moneys in the fund shall be used for the purpose  
7 of providing loans on any terms and conditions as the board may  
8 determine, from the Pooled Money Investment Account to cities,  
9 counties, and cities and counties to prepare and adopt plans that  
10 provide for housing pursuant to Article 9 (commencing with  
11 Section 65470) of Chapter 3 of Division 1 of Title 7.

12 SEC. 2. Section 16319 is added to the Government Code, to  
13 read:

14 16319. To be eligible for a loan from the Housing  
15 Opportunity Plan Revolving Fund the city, county, or city and  
16 county shall submit to the Department of Housing and  
17 Community Development the annual report required by Section  
18 65400 within the preceding 12 months.

19 SEC. 3. Section 16319.5 is added to the Government Code, to  
20 read:

21 16319.5. (a) Loans made from the Housing Opportunity Plan  
22 Revolving Fund shall not exceed \_\_\_\_ (\$\_\_\_\_) and shall be for a

term of not more than 10 years. It is the intent of the Legislature that the loans be repaid primarily by a fee collected at the time of the issuance of a permit for new residential construction. The board in its sole discretion, may extend the term of the loan upon a finding of undue hardship.

(b) A loan from the Housing Opportunity Plan Revolving Fund shall incur 3 percent simple interest. If the Housing Opportunity Plan (Article 9 (commencing with Section 65470) of Chapter 3 of Division 1 of Title 7) is not adopted within two years of the date established in the loan agreement, the interest rate shall be recalculated from the initial closing date of the loan agreement at 6 percent simple interest.

(c) Loan funds may be used for staff costs, or the cost of a consulting contract, to process the Housing Opportunity Plan (Article 9 (commencing with Section 65470) of Chapter 3 of Division 1 of Title 7), conduct environmental assessments or other necessary studies, and provide for public participation outside of regularly scheduled meetings of established governing bodies, including a planning commission, city council, or board of supervisors.

SEC. 4. Section 65300 of the Government Code is amended to read:

65300. (a) Each planning agency shall prepare, and the legislative body of each ~~county and city~~ *local government* shall adopt, a comprehensive, long-term general plan for the physical development of the county or city, and of any land outside its boundaries ~~which~~ *that* in the planning agency's judgment bears relation to its planning. Chartered cities shall adopt general plans ~~which~~ *that* contain the mandatory elements specified in Section 65302. *"Long-term," as used in this section, means that the general plan, including all of its functional elements, shall encompass a planning and projection period of not less than 20 years. "Comprehensive," as used in this section and Section 65302, shall mean that the population and employment projections of all of the functional elements of the general plan are consistent with each other and are periodically updated not less than every 10 years.*

(b) *"Local government," as used in this chapter and in Chapter 4 (commencing with Section 65800), means a city, county, or city and county.*

1     (c) As used in Section 65584, “taking care of their own” or  
2     “taking care of its own” shall mean that each local government  
3     shall have an obligation to at least plan to accommodate their  
4     own natural population increases and job generation for the full  
5     spectrum of the population, including very low and low-income  
6     households and workers as determined pursuant to Section  
7     65584 and Section 65584.01.

8     SEC. 5. Section 65300.1 is added to the Government Code, to  
9     read:

10    65300.1. The Legislature finds and declares all of the  
11    following:

12    (a) The lack of housing is a critical problem that threatens the  
13    economic prosperity, environment, and quality of life of  
14    California families.

15    (b) The supply and cost of housing throughout the state is  
16    inextricably linked to the quantity of land suitable and available  
17    for residential development. In order to comprehensively address  
18    the housing crisis on a long-term basis, local governments must  
19    ensure the availability of sufficient sites to accommodate their  
20    20-year projected need for new housing.

21    (c) Local governments shall utilize their land use authority in  
22    a manner that accommodates the long-term housing need while  
23    meeting the objectives for comprehensive planning set forth in  
24    subdivision (a) of Section 65300.

25    (d) Accommodating long-term housing needs while meeting  
26    the objectives for comprehensive planning set forth in  
27    subdivision (a) of Section 65300 serves to advance the following  
28    objectives for a prosperous economy, a quality environment, and  
29    social equity:

30    (1) An adequate supply of housing and transportation  
31    infrastructure to support population growth and economic  
32    expansion.

33    (2) A mix of housing in proximity to employment centers.

34    (3) A mix of housing types for all economic segments within  
35    each community.

36    (4) Construction of housing at densities that reflect an efficient  
37    use of the land and an effective use of public subsidies to achieve  
38    affordable housing to very low, low-, and moderate-income  
39    households.

(5) Promotion of opportunities and regulatory certainty for development of infill or refill sites on vacant or underutilized land, and brownfield sites.

(6) Efficient development patterns and promotion of greater public use of alternative modes of transportation.

(7) Minimization of development pressures on prime agricultural land, as defined in subdivision (c) of Section 51201.

(8) Protection of wildlife habitat pursuant to federal or state law.

SEC. 6. Section 65302 of the Government Code is amended to read:

65302. The general plan shall consist of a statement of development policies and shall include a diagram or diagrams and text setting forth objectives, principles, standards, and plan proposals. The plan shall include the following elements:

(a) A land use element that designates the proposed general distribution and general location and extent of the uses of the land for housing, business, industry, open space, including agriculture, natural resources, recreation, and enjoyment of scenic beauty, education, public buildings and grounds, solid and liquid waste disposal facilities, and other categories of public and private uses of land. The land use element shall include a statement of the standards of population density and building intensity recommended for the various districts and other territory covered by the plan. The land use element shall identify areas covered by the plan ~~which~~ *that* are subject to flooding and shall be reviewed annually with respect to those areas. The land use element shall also do both of the following:

(1) *Designate sufficient land for residential use to meet the regional housing need consistent with Sections 65583, 65583.2, 65584, and 65584.01. At least every 10 years the city council or board of supervisors shall review this part of the land use element and shall make any necessary amendments to ensure that there continues to be designated a 20-year supply of land for residential use.*

(2) Designate in a land use category that provides for timber production those parcels of real property zoned for timberland production pursuant to the California Timberland Productivity Act of ~~1982, Chapter 1982~~ (Chapter 6.7 (commencing with Section 51100) of Part 1 of Division 1 of Title ~~5~~ 5).

1     ~~(2)~~

2     (3) Consider the impact of new growth on military readiness  
3 activities carried out on military bases, installations, and  
4 operating and training areas, when proposing zoning ordinances  
5 or designating land uses covered by the general plan for land, or  
6 other territory adjacent to military facilities, or underlying  
7 designated military aviation routes and airspace.

8     (A) In determining the impact of new growth on military  
9 readiness activities, information provided by military facilities  
10 shall be considered. Cities and counties shall address military  
11 impacts based on information from the military and other  
12 sources.

13     (B) The following definitions govern this paragraph:

14     (i) “Military readiness activities” mean all of the following:

15     (I) Training, support, and operations that prepare the men and  
16 women of the military for combat.

17     (II) Operation, maintenance, and security of any military  
18 installation.

19     (III) Testing of military equipment, vehicles, weapons, and  
20 sensors for proper operation or suitability for combat use.

21     (ii) “Military installation” means a base, camp, post, station,  
22 yard, center, homeport facility for any ship, or other activity  
23 under the jurisdiction of the United States Department of  
24 Defense, as defined in paragraph (1) of subsection (e) of Section  
25 2687 of Title 10 of the United States Code.

26     (b) A circulation element consisting of the general location  
27 and extent of existing and proposed major thoroughfares,  
28 transportation routes, terminals, any military airports and ports,  
29 and other local public utilities and facilities, all correlated with  
30 the land use element of the plan.

31     (c) A housing element, as provided in Article 10.6  
32 (commencing with Section 65580).

33     (d) A conservation element for the conservation, development,  
34 and utilization of natural resources, including water and its  
35 hydraulic force, forests, soils, rivers and other waters, harbors,  
36 fisheries, wildlife, minerals, and other natural resources. The  
37 conservation element shall consider the effect of development  
38 within the jurisdiction, as described in the land use element, on  
39 natural resources located on public lands, including military  
40 installations. That portion of the conservation element, including

1 waters, shall be developed in coordination with any countywide  
2 water agency and with all district and city agencies that have  
3 developed, served, controlled, or conserved water for any  
4 purpose for the county or city for which the plan is prepared.  
5 Coordination shall include the discussion and evaluation of any  
6 water supply and demand information described in Section  
7 65352.5, if that information has been submitted by the water  
8 agency to the city or county. The conservation element may also  
9 cover the following:

- 10 (1) The reclamation of land and waters.
- 11 (2) Prevention and control of the pollution of streams and  
12 other waters.
- 13 (3) Regulation of the use of land in stream channels and other  
14 areas required for the accomplishment of the conservation plan.
- 15 (4) Prevention, control, and correction of the erosion of soils,  
16 beaches, and shores.
- 17 (5) Protection of watersheds.
- 18 (6) The location, quantity, and quality of the rock, sand, and  
19 gravel resources.
- 20 (7) Flood control.

21 The conservation element shall be prepared and adopted no  
22 later than December 31, 1973.

23 (e) An open-space element, as provided in Article 10.5  
24 (commencing with Section 65560).

25 (f) A noise element—~~which~~ *that* shall identify and appraise  
26 noise problems in the community. The noise element shall  
27 recognize the guidelines established by the Office of Noise  
28 Control in the State Department of Health Services and shall  
29 analyze and quantify, to the extent practicable, as determined by  
30 the legislative body, current and projected noise levels for all of  
31 the following sources:

- 32 (1) Highways and freeways.
- 33 (2) Primary arterials and major local streets.
- 34 (3) Passenger and freight on-line railroad operations and  
35 ground rapid transit systems.
- 36 (4) Commercial, general aviation, heliport, helistop, and  
37 military airport operations, aircraft overflights, jet engine test  
38 stands, and all other ground facilities and maintenance functions  
39 related to airport operation.

1 (5) Local industrial plants, including, but not limited to,  
2 railroad classification yards.

3 (6) Other ground stationary noise sources, including, but not  
4 limited to, military installations, identified by local agencies as  
5 contributing to the community noise environment.

6 Noise contours shall be shown for all of these sources and  
7 stated in terms of community noise equivalent level (CNEL) or  
8 day-night average level ( $L_{dn}$ ). The noise contours shall be  
9 prepared on the basis of noise monitoring or following generally  
10 accepted noise modeling techniques for the various sources  
11 identified in paragraphs (1) to (6), inclusive.

12 The noise contours shall be used as a guide for establishing a  
13 pattern of land uses in the land use element that minimizes the  
14 exposure of community residents to excessive noise.

15 The noise element shall include implementation measures and  
16 possible solutions that address existing and foreseeable noise  
17 problems, if any. The adopted noise element shall serve as a  
18 guideline for compliance with the state's noise insulation  
19 standards.

20 (g) A safety element for the protection of the community from  
21 any unreasonable risks associated with the effects of seismically  
22 induced surface rupture, ground shaking, ground failure, tsunami,  
23 seiche, and dam failure; slope instability leading to mudslides  
24 and landslides; subsidence, liquefaction, and other seismic  
25 hazards identified pursuant to Chapter 7.8 (commencing with  
26 Section 2690) of the Public Resources Code, and other geologic  
27 hazards known to the legislative body; flooding; and wild land  
28 and urban fires. The safety element shall include mapping of  
29 known seismic and other geologic hazards. It shall also address  
30 evacuation routes, military installations, peakload water supply  
31 requirements, and minimum road widths and clearances around  
32 structures, as those items relate to identified fire and geologic  
33 hazards.

34 (1) Prior to the periodic review of its general plan and prior to  
35 preparing or revising its safety element, each city and county  
36 shall consult the Division of Mines and Geology of the  
37 Department of Conservation and the Office of Emergency  
38 Services for the purpose of including information known by, and  
39 available to, the department and the office required by this  
40 subdivision.



1 (2) To the extent that a county's safety element is sufficiently  
2 detailed and contains appropriate policies and programs for  
3 adoption by a city, a city may adopt that portion of the county's  
4 safety element that pertains to the city's planning area in  
5 satisfaction of the requirement imposed by this subdivision.

6 SEC. 7. Article 9 (commencing with Section 65470) is added  
7 to Chapter 3 of Division 1 of Title 7 of the Government Code, to  
8 read:

9  
10 Article 9. Housing Opportunity Plans  
11

12 65470. At the same time the local government revises its  
13 housing element pursuant to subdivision (c) of Section 65588,  
14 each city council and board of supervisors shall adopt a housing  
15 opportunity plan as part of the housing element.

16 65471. (a) The housing opportunity plan shall, upon  
17 adoption, do all of the following:

18 (1) Include a map or other description outlining the area or  
19 areas covered by the plan.

20 (2) Include a land use program that includes the distribution,  
21 location, and extent of uses of the land within the area covered by  
22 the plan.

23 (3) From the sites identified pursuant to subdivision (a) of  
24 Section 65583.2, designate and zone adequate sites for residential  
25 use to accommodate the jurisdiction's 10-year housing need  
26 allocated pursuant to Sections 65584 and 65584.01 (housing  
27 opportunity sites). The local government's obligation to zone  
28 adequate sites to accommodate its share of the region's 10-year  
29 housing need for very low, low-, and moderate-income  
30 households shall be satisfied by zoning sites to allow the  
31 specified minimum number of units per acre, as identified in  
32 subdivision (d) of Section 65583.2. Residential use on a site zone  
33 to allow a specified minimum number of units per acre, as  
34 identified in subdivision (d) of Section 65583.2, shall be by right,  
35 as defined in subdivision (j) of Section 65583.2.

36 (A) The designation and zoning for a housing opportunity site  
37 shall establish and allow development of a minimum and  
38 maximum density range.

39 (B) The city council or board of supervisors shall make a  
40 finding, supported by substantial evidence in the record, that each

1 housing opportunity site is adequate for construction of the  
2 number of units allowed by the density range applicable to the  
3 site. A finding of adequacy shall be based on a showing that the  
4 site is appropriate in terms of size, configuration, physical  
5 characteristics, current use, physical and environmental  
6 constraints, access, location, adjacent use, market factors, current  
7 or planned availability of infrastructure and services, and other  
8 relevant planning criteria.

9 (4) Include residential design and landscape architecture  
10 guidelines that permit the construction of the maximum number  
11 of units allowed by the density range applicable to the housing  
12 opportunity site.

13 (5) Show the proposed distribution, location, extent, and  
14 intensity of the major components of the public and private  
15 transportation, sewage, water, drainage, solid waste disposal,  
16 energy, and other essential facilities and services proposed to be  
17 located within the area covered by the plan and needed to support  
18 the land uses described in the plan.

19 (6) Describe how the construction and maintenance of public  
20 infrastructure and the provision of public services identified in  
21 paragraph (5) will be funded.

22 (7) Include a program of implementation measures including  
23 property development standards, regulations, criteria, and other  
24 measures necessary to carry out the plan. The implementation  
25 measures shall permit the construction of the maximum number  
26 of units allowed by the density range applicable to the housing  
27 opportunity site.

28 (8) Include standards for the conservation, development, and  
29 utilization of natural resources, where applicable.

30 (b) A housing opportunity plan may include the information  
31 required by this section on an areawide or site-specific basis.

32 (c) The housing opportunity plan may address any other  
33 subjects that in the judgment of the planning agency are  
34 necessary or desirable for implementation of the plan.

35 65472. (a) In addition to the notice and hearing requirements  
36 that apply to the adoption of a mandatory element of a general  
37 plan, when a jurisdiction adopts its initial housing opportunity  
38 plan and when it adopts a major amendment as part of a five-year  
39 review, it shall follow these procedures:

1 (1) On or before six months prior to the first planning  
2 commission hearing, a statement of preparation shall be  
3 published in a newspaper of general circulation, mailed to all  
4 property owners whose property is proposed for inclusion in the  
5 housing opportunity plan, all property owners living within 500  
6 feet of the boundaries of the housing opportunity plan, all  
7 homeowners associations within the boundaries of the housing  
8 opportunity plan, and all persons requesting notice of the  
9 planning actions of the jurisdiction.

10 (2) The legislative body shall appoint a community advisory  
11 committee to provide citizen input. The legislative body shall, by  
12 resolution, adopt a procedure for the formation of the community  
13 advisory committee. The procedure shall include all of the  
14 following:

15 (A) Publishing notice in a newspaper of general circulation of  
16 the opportunity to serve on the community advisory committee at  
17 least 30 days prior to the formation of the community advisory  
18 committee. The legislative body shall make a diligent effort to  
19 achieve public participation of all economic segments of the  
20 community in the development of the housing opportunity plan.

21 (B) The legislative body shall conduct a minimum of one  
22 public meeting to explain the establishment of, functions of, and  
23 opportunity to service on, the community advisory committee.

24 (3) One or more community forums shall be held. Notice shall  
25 be provided to all persons attending the community forums of  
26 subsequent consideration of the plan.

27 (4) Compliance with the referral requirements of Section  
28 65352.

29 (b) Within 30 days after adoption, the jurisdiction shall mail  
30 notice to all property owners of lands within one-quarter mile of  
31 the exterior boundary of each area included within the plan. The  
32 jurisdiction shall adopt a local disclosure statement that requires  
33 all purchasers of land within one-quarter mile of the exterior  
34 boundary of each area included within the plan to be notified of  
35 the plan and how to obtain a copy of the plan.

36 (c) For purposes of this article, “major amendment” means an  
37 amendment that changes the permitted uses or intensity of uses  
38 applicable to a site within the plan, removes a site from the plan,  
39 or adds a site to the plan.

1 65474. (a) Any approval sought in connection with a  
2 residential project that is consistent with the housing opportunity  
3 plan shall be subject to the Permit Streamlining Act (Chapter 4.5  
4 (commencing with Section 65920) of Division 1 of Title 7). For  
5 purposes of this section, a residential project is consistent with  
6 the housing opportunity plan if it substantially conforms to the  
7 housing opportunity plan as determined by the legislative body of  
8 the city or county.

9 (b) (1) Any approval sought in connection with a residential  
10 project that is consistent with the housing opportunity plan may  
11 not be denied or conditioned on reducing the residential project's  
12 density below that proposed by the applicant unless by four-fifths  
13 vote the legislative body makes written findings pursuant to  
14 subdivision (j) of Section 65589.5. For purposes of this section  
15 and Section 65475, an abstention may not count as an affirmative  
16 vote for purposes of satisfying the four-fifths vote requirement.

17 (2) An action or proceeding by a project applicant alleging that  
18 the legislative body has denied or conditioned a residential  
19 project in violation of this subdivision shall be commenced and  
20 the public agency served within 60 days of the public agency's  
21 decision. If the plaintiff is the prevailing party it shall be awarded  
22 attorney's fees if the court determines that the legislative body  
23 acted in bad faith.

24 (3) Nothing in this subdivision shall preclude the local  
25 jurisdiction from imposing an otherwise lawful condition,  
26 including the payment of fees, on the residential project.

27 (c) (1) Any residential project that is undertaken to implement  
28 and is consistent with a housing opportunity plan for which an  
29 environmental impact report has been certified is exempt from  
30 the requirements of the California Environmental Quality Act  
31 (Division 13 (commencing with Section 21000) of the Public  
32 Resources Code). However, if after adoption of the housing  
33 opportunity plan, an event as specified in Section 21166 of the  
34 Public Resources Code occurs, the exemption provided by this  
35 subdivision does not apply unless and until a supplemental  
36 environmental impact report for the housing opportunity plan is  
37 prepared and certified in accordance with Division 13  
38 (commencing with Section 21000) of the Public Resources Code.  
39 After a supplemental environmental impact report is certified, the

1 exemption specified in this subdivision applies to residential  
2 projects undertaken pursuant to the housing opportunity plan.

3 (2) An action or proceeding alleging that a public agency has  
4 approved a residential project pursuant to a housing opportunity  
5 plan without having previously certified a supplemental  
6 environmental impact report for the housing opportunity plan,  
7 where required by paragraph (1), shall be commenced and the  
8 public agency served within 30 days of the public agency's  
9 decision to approve the residential project.

10 (d) An action challenging a public agency's decision to  
11 approve a residential project within the housing opportunity plan  
12 on the basis that the residential project is inconsistent with the  
13 housing opportunity plan shall be commenced and service made  
14 on the public agency within 30 days of the public agency's  
15 decision to approve the residential project.

16 (e) For purposes of this section, "residential project" includes  
17 a mixed-use development consisting of residential and  
18 nonresidential uses in which nonresidential uses are limited to  
19 neighborhood commercial uses and to the first floor of buildings  
20 that are two or more stories if the nonresidential uses are  
21 approved by the local agency in accordance with its review  
22 process for mixed-use development. For purposes of this  
23 subdivision, "neighborhood commercial" means small-scale  
24 general or specialty stores that furnish goods or services  
25 primarily to residents of the neighborhood.

26 (f) (1) Except as provided in paragraph (2), for the first five  
27 years that a site is within the housing opportunity plan, the  
28 provisions of the housing opportunity plan applicable to that site  
29 may not be amended except by a four-fifths vote of the  
30 legislative body after making written findings pursuant to  
31 subdivision (j) of Section 65589.5. If the amendment would  
32 result in the housing opportunity plan not containing adequate  
33 sites to accommodate the 10-year housing need requirement, the  
34 jurisdiction shall add adequate sites to the housing opportunity  
35 plan so that there is no net loss of residential density. An action  
36 or proceeding alleging that the legislative body has amended the  
37 housing opportunity plan in violation of this paragraph shall be  
38 commenced, and the public agency served, within 60 days. If the  
39 plaintiff is the prevailing party, it shall be awarded attorney's

1 fees if the court determines that the legislative body acted in bad  
2 faith.

3 (2) At any time, the owner of a site within the housing  
4 opportunity plan or a project applicant may request an  
5 amendment to the plan. When a property owner or project  
6 applicant requests an amendment to the plan, the city council or  
7 board of supervisors has discretion to approve or deny the  
8 amendment by majority vote without making a health and safety  
9 finding, subject to compliance with paragraph (3).

10 (3) If the proposed amendment requests a reduction in density  
11 below the established minimum density for a site within the  
12 housing opportunity plan and would result in the remaining sites  
13 not being adequate to accommodate the 10-year housing need  
14 requirement, the jurisdiction may reduce the density below the  
15 established minimum density on that site if it adds adequate sites  
16 to the housing opportunity plan so that there is no net loss of  
17 residential density.

18 (g) (1) Except as provided in paragraph (2), or as may be  
19 limited or prohibited by another provision of law such as the  
20 existence of a development agreement or vesting tentative map,  
21 after a site has been in the housing opportunity plan for more  
22 than five years, the provisions of the plan applicable to that site  
23 may be amended by majority vote of the legislative body and  
24 without making a health and safety finding, subject to  
25 compliance with paragraph (4) of subdivision (b).

26 (2) When a complete application has been submitted to  
27 develop a residential project, or a project applicant has submitted  
28 a letter of intent to develop a residential project, within the  
29 housing opportunity plan to the local jurisdiction and expended  
30 the amount specified in Section 66452.6 in preproject  
31 expenditures, those parts of the plan applicable to the residential  
32 project may not be amended except by four-fifths vote of the  
33 legislative body after making written findings pursuant to  
34 subdivision (j) of Section 65589.5. A letter of intent to develop  
35 shall cease to have effect under this paragraph if a project  
36 application is not submitted within three years after the letter of  
37 intent is filed.

38 (3) An action or proceeding alleging that the legislative body  
39 has amended the housing opportunity plan in violation of  
40 paragraph (2) shall be commenced, and the public agency served,

1 within 60 days of the public agency's decision. If the plaintiff is  
2 the prevailing party, it shall be awarded attorney's fees if the  
3 court determines that the legislative body acted in bad faith.

4 65477. A housing opportunity plan may not be subject to  
5 review and certification by the Department of Housing and  
6 Community Development pursuant to Section 65585.

7 65478. (a) Each local jurisdiction shall send a copy of its  
8 adopted housing opportunity plan and all subsequent  
9 amendments to the council of governments. If the council of  
10 governments has not received a jurisdiction's housing  
11 opportunity plan within 30 days of the date required for plan  
12 adoption, or an amendment required as part of a five-year review  
13 within 30 days of the date required for plan revision, the council  
14 of governments shall immediately notify the Attorney General  
15 and the Controller.

16 (b) (1) When a local jurisdiction fails to adopt the housing  
17 opportunity plan by the required deadline, or fails to adopt an  
18 amendment required as part of a five-year review by the required  
19 deadline, at any time before the local jurisdiction adopts the plan  
20 or amendment, the Attorney General or any person may bring an  
21 action to require adoption of the plan or amendment. If the court  
22 finds in the plaintiff or petitioner's favor, it shall promptly issue  
23 an order requiring the jurisdiction to adopt the plan or  
24 amendment within 90 days of the date of the order.

25 (2) If the action is brought more than 90 days after the  
26 deadline and the court finds in the plaintiff or petitioner's favor,  
27 the court order shall also appoint a special master to oversee the  
28 adoption of the plan or amendment by the jurisdiction. The order  
29 shall provide the special master with the authority to establish  
30 progress deadlines within the 90-day period described in  
31 paragraph (1) and shall provide that a jurisdiction's failure to  
32 meet a deadline shall result in a fine of ten thousand dollars  
33 (\$10,000) per day for each day the deadline is missed. Fines shall  
34 not be paid from any funds that are collected or dedicated for  
35 affordable housing. Fines shall be transferred to the council of  
36 governments and made available for expenditure on affordable  
37 housing projects within the region. The court's order shall also  
38 authorize the special master to oversee the review and approval  
39 of residential projects.

1 (3) If the plaintiff or petitioner is the prevailing party, it shall  
2 be awarded attorney's fees.

3 65479. If a court finds that the housing opportunity plan is  
4 not in substantial compliance with the requirements of this  
5 article, the court shall retain jurisdiction of the action and issue  
6 an order to the jurisdiction to revise the plan for further review  
7 by the court within 120 days or a lesser period if the court  
8 determines that a lesser period is appropriate. If the court  
9 determines that the revised housing opportunity plan is not in  
10 substantial compliance with the requirements of this article, the  
11 following shall apply:

12 (a) The court may impose fines of up to ten thousand dollars  
13 (\$10,000) per day. Fines shall not be paid from any funds that are  
14 collected or dedicated for affordable housing. Fines shall be  
15 transferred to the council of governments for expenditure on  
16 affordable housing projects within the region.

17 (b) The court shall order the second revised housing  
18 opportunity plan to be adopted within 60 days of the  
19 determination that the revised housing opportunity plan is not in  
20 substantial compliance with the requirements of this article and  
21 shall appoint a special master to oversee the adoption by the  
22 jurisdiction of the second revised housing opportunity plan. The  
23 court's order shall provide the special master with the authority  
24 to establish deadlines and shall provide that a jurisdiction's  
25 failure to meet a deadline shall result in a fine of ten thousand  
26 dollars (\$10,000) per day for each day the deadline is missed.  
27 Fines shall not be paid from any funds that are collected or  
28 dedicated for affordable housing. Fines shall be transferred to the  
29 council of governments for expenditure on affordable housing  
30 projects within the region. The court's order shall also authorize  
31 the special master to oversee the review and approval of  
32 residential projects.

33 65480. An action or proceeding brought pursuant to this  
34 article shall have precedence over all other civil actions and  
35 proceedings in the same manner and to the same extent as  
36 provided in subdivision (a) of Section 21167.1 of the Public  
37 Resources Code.

38 65481. All deadlines specified in this article are mandatory,  
39 not directory.



SEC. 8. Section 65582 of the Government Code is amended to read:

65582. As used in this article *and in Article 9 (commencing with Section 65470), the following terms have the following meanings:*

(a) “Community,” “locality,” “local government,” or “jurisdiction” means a city, city and county, or county, *whether general law or chartered.*

(b) “Council of governments” means a single or multicounty council created by a joint powers agreement pursuant to Chapter 5 (commencing with Section 6500) of Division 1 of Title 1.

(c) “Department” means the Department of Housing and Community Development.

(d) “Housing element” or “element” means the housing element of the community’s general plan, as required pursuant to this article and subdivision (c) of Section 65302.

(e) *“Regional housing need” means the minimum amount of housing that shall be accommodated by each local government on appropriately designated land for a 20-year period including a 10-year projection of housing need to be accommodated in a housing opportunity plan, as determined pursuant to Sections 65584 and 65584.01.*

(f) *“Very low, low-, and moderate-income households” means persons and families of very low, low, or moderate incomes, as defined by Section 50093 of the Health and Safety Code.*

(g) *As used in Section 65584, “taking care of their own” or “taking care of its own” shall mean that each local government shall have an obligation to at least plan to accommodate their own natural population increases and job generation pursuant to Sections 65584 and 65584.01.*

SEC. 9. Section 65583 of the Government Code is amended to read:

65583. The housing element shall consist of an identification and analysis of existing and projected housing needs and a statement of goals, policies, quantified objectives, financial resources, and scheduled programs for the preservation, improvement, and development of housing. The housing element shall identify adequate sites for housing, including rental housing, factory-built housing, and mobilehomes, and shall make adequate provision for the existing and projected needs of all

1 economic segments of the community. The element shall contain  
2 all of the following:

3 (a) *A housing opportunity plan adopted pursuant to Article 9*  
4 *(commencing with Section 65470).*

5 (b) An assessment of housing needs and an inventory of  
6 resources and constraints relevant to the meeting of these needs.

7 The assessment and inventory shall include all of the following:

8 (1) An analysis of population and employment trends ~~and~~  
9 ~~documentation of projections~~ and a quantification of the  
10 locality's existing and projected housing needs for all income  
11 levels. These existing and projected needs shall include the  
12 locality's share of the regional housing need in accordance with  
13 Section 65584 *and Section 65584.01*.

14 (2) An analysis and documentation of household  
15 characteristics, including level of payment compared to ability to  
16 pay, housing characteristics, including overcrowding, and  
17 housing stock condition.

18 (3) An inventory of land suitable for residential development,  
19 including vacant sites and sites having potential for  
20 redevelopment, and an analysis of the relationship of zoning and  
21 public facilities and services to these sites.

22 (4) An analysis of potential and actual governmental  
23 constraints upon the maintenance, improvement, or development  
24 of housing for all income levels and for persons with disabilities  
25 as identified in the analysis pursuant to paragraph (6), including  
26 land use controls, building codes and their enforcement, site  
27 improvements, fees and other exactions required of developers,  
28 and local processing and permit procedures. The analysis shall  
29 also demonstrate local efforts to remove governmental  
30 constraints that hinder the locality from meeting its share of the  
31 regional housing need in accordance with Section 65584 and  
32 from meeting the need for housing for persons with disabilities  
33 identified pursuant to paragraph ~~(6)~~ (5).

34 ~~(5) An analysis of potential and actual nongovernmental~~  
35 ~~constraints upon the maintenance, improvement, or development~~  
36 ~~of housing for all income levels, including the availability of~~  
37 ~~financing, the price of land, and the cost of construction.~~

38 ~~(6)~~

39 (5) An analysis of any special housing needs, such as those of  
40 the elderly, persons with disabilities, large families, farmworkers,

1 families with female heads of households, and families and  
2 persons in need of emergency shelter.

3 ~~(7)~~

4 (6) An analysis of opportunities for energy conservation with  
5 respect to residential development.

6 ~~(8)~~

7 (7) An analysis of existing assisted housing developments that  
8 are eligible to change from low-income housing uses during the  
9 next 10 years due to termination of subsidy contracts, mortgage  
10 prepayment, or expiration of restrictions on use. “Assisted  
11 housing developments,” for the purpose of this section, shall  
12 mean multifamily rental housing that receives governmental  
13 assistance under federal programs listed in subdivision (a) of  
14 Section 65863.10, state and local multifamily revenue bond  
15 programs, local redevelopment programs, the federal Community  
16 Development Block Grant Program, or local in-lieu fees.  
17 “Assisted housing developments” shall also include multifamily  
18 rental units that were developed pursuant to a local inclusionary  
19 housing program or used to qualify for a density bonus pursuant  
20 to Section 65916.

21 (A) The analysis shall include a listing of each development  
22 by project name and address, the type of governmental assistance  
23 received, the earliest possible date of change from low-income  
24 use and the total number of elderly and nonelderly units that  
25 could be lost from the locality’s low-income housing stock in  
26 each year during the 10-year period. For purposes of state and  
27 federally funded projects, the analysis required by this  
28 subparagraph need only contain information available on a  
29 statewide basis.

30 ~~(B) The analysis shall estimate the total cost of producing new~~  
31 ~~rental housing that is comparable in size and rent levels, to~~  
32 ~~replace the units that could change from low-income use, and an~~  
33 ~~estimated cost of preserving the assisted housing developments.~~  
34 ~~This cost analysis for replacement housing may be done~~  
35 ~~aggregately for each five-year period and does not have to~~  
36 ~~contain a project-by-project cost estimate.~~

37 ~~(C)~~

38 (B) The analysis shall identify public and private nonprofit  
39 corporations known to the local government ~~which~~ that have

1 legal and managerial capacity to acquire and manage these  
2 housing developments.

3 ~~(D) The analysis shall identify and consider the use of all~~  
4 ~~federal, state, and local financing and subsidy programs which~~  
5 ~~can be used to preserve, for lower income households, the~~  
6 ~~assisted housing developments, identified in this paragraph,~~  
7 ~~including, but not limited to, federal Community Development~~  
8 ~~Block Grant Program funds, tax increment funds received by a~~  
9 ~~redevelopment agency of the community, and administrative fees~~  
10 ~~received by a housing authority operating within the community.~~  
11 ~~In considering the use of these financing and subsidy programs,~~  
12 ~~the analysis shall identify the amounts of funds under each~~  
13 ~~available program which have not been legally obligated for~~  
14 ~~other purposes and which could be available for use in preserving~~  
15 ~~assisted housing developments.~~

16 ~~(b)~~

17 (c) (1) A statement of the community's goals, quantified  
18 objectives, and policies relative to the maintenance, preservation,  
19 improvement, and development of housing.

20 (2) It is recognized that the total housing needs identified  
21 pursuant to subdivision (a) may exceed available resources and  
22 the community's ability to satisfy this need within the content of  
23 the general plan requirements outlined in Article 5 (commencing  
24 with Section 65300). Under these circumstances, the quantified  
25 objectives need not be identical to the total housing needs. The  
26 quantified objectives shall establish the maximum number of  
27 housing units by income category that can be constructed,  
28 rehabilitated, and conserved over a five-year time period.

29 ~~(e)~~

30 (d) A program ~~which~~ that sets forth a five-year schedule of  
31 actions the local government is undertaking or intends to  
32 undertake to implement the policies and achieve the goals and  
33 objectives of the housing element through the administration of  
34 land use and development controls, provision of regulatory  
35 concessions and incentives, and the utilization of appropriate  
36 federal and state financing and subsidy programs, when  
37 available, and the utilization of moneys in a low- and  
38 moderate-income housing fund of an agency if the locality has  
39 established a redevelopment project area pursuant to the  
40 Community Redevelopment Law (Division 24 (commencing

with Section 33000) of the Health and Safety Code). In order to make adequate provision for the housing needs of all economic segments of the community, the program shall do all of the following:

~~(1) Identify actions that will be taken to make sites available during the planning period of the general plan with appropriate zoning and development standards and with services and facilities to accommodate that portion of the city's or county's share of the regional housing need for each income level that could not be accommodated on sites identified in the inventory completed pursuant to paragraph (3) of subdivision (a) without rezoning, and to comply with the requirements of Section 65584.09. Sites shall be identified as needed to facilitate and encourage the development of a variety of types of housing for all income levels, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, emergency shelters, and transitional housing.~~

~~(A) Where the inventory of sites, pursuant to paragraph (3) of subdivision (a), does not identify adequate sites to accommodate the need for groups of all household income levels pursuant to Section 65584, the program shall identify sites that can be developed for housing within the planning period pursuant to subdivision (h) of Section 65583.2.~~

~~(B) Where~~

~~(1) (A) Identify sites to facilitate and encourage the development of a variety of types of housing for all income levels, including multifamily rental housing, factory-built housing, manufactured homes, housing for agricultural employees, emergency shelters, and transitional housing.~~

~~(B) Identify policies and incentives to promote infill development and the efficient use of land, including, but not limited to, expedited permit processing, modified development standards, and fee waivers.~~

~~(C) When the inventory of sites pursuant to paragraph (3) of subdivision—(a) (b) does not identify adequate sites to accommodate the need for farmworker housing, the program shall provide for sufficient sites to meet the need with zoning that permits farmworker housing use by right, including density and development standards that could accommodate and facilitate the~~

1 feasibility of the development of farmworker housing for low-  
2 and very low income households.

3 (2) Assist in the development of adequate housing to meet the  
4 needs of low- and moderate-income households.

5 (3) Address and, where appropriate and legally possible,  
6 remove governmental constraints to the maintenance,  
7 improvement, and development of housing, including housing for  
8 all income levels and housing for persons with disabilities. The  
9 program shall remove constraints to, or provide reasonable  
10 accommodations for housing designed for, intended for  
11 occupancy by, or with supportive services for, persons with  
12 disabilities.

13 (4) Conserve and improve the condition of the existing  
14 affordable housing stock, which may include addressing ways to  
15 mitigate the loss of dwelling units demolished by public or  
16 private action.

17 (5) Promote housing opportunities for all persons regardless of  
18 race, religion, sex, marital status, ancestry, national origin, color,  
19 familial status, or disability.

20 (6) ~~(A) Preserve for lower income households the assisted~~  
21 ~~housing developments identified pursuant to paragraph-(8) (7) of~~  
22 ~~subdivision-(a) (b). The program for preservation of the assisted~~  
23 ~~housing developments shall utilize, to the extent necessary, all~~  
24 ~~available federal, state, and local financing and subsidy programs~~  
25 ~~identified in paragraph (8) of subdivision (a), except where a~~  
26 ~~community has other urgent needs for which alternative funding~~  
27 ~~sources are not available. The program may include strategies~~  
28 ~~that involve local regulation and technical assistance.~~

29 ~~(B)~~

30 (7) The program shall include an identification of the agencies  
31 and officials responsible for the implementation of the various  
32 actions and the means by which consistency will be achieved  
33 with other general plan elements and community goals. The local  
34 government shall make a diligent effort to achieve public  
35 participation of all economic segments of the community in the  
36 development of the housing element, and the program shall  
37 describe this effort.

38 ~~(d) The analysis and program for preserving assisted housing~~  
39 ~~developments required by the amendments to this section enacted~~

1 by the Statutes of 1989 shall be adopted as an amendment to the  
2 housing element by July 1, 1992.

3 (e) ~~Failure of the department to review and report its findings~~  
4 ~~pursuant to Section 65585 to the local government between July~~  
5 ~~1, 1992, and the next periodic review and revision required by~~  
6 ~~Section 65588, concerning the housing element amendment~~  
7 ~~required by the amendments to this section by the Statutes of~~  
8 ~~1989, shall not be used as a basis for allocation or denial of any~~  
9 ~~housing assistance administered pursuant to Part 2 (commencing~~  
10 ~~with Section 50400) of Division 31 of the Health and Safety~~  
11 ~~Code.~~

12 SEC. 10. Section 65583.2 of the Government Code is  
13 amended to read:

14 65583.2. (a) A city's or county's inventory of land suitable  
15 for residential development pursuant to paragraph (3) of  
16 subdivision (a) (b) of Section 65583 shall be used to identify sites  
17 that can be developed for housing within the planning period and  
18 that are sufficient to provide for the jurisdiction's share of the  
19 regional housing need for all income levels pursuant to Section  
20 65584. As used in this section, "land suitable for residential  
21 development" includes all of the following:

- 22 (1) Vacant sites zoned for residential use.  
23 (2) Vacant sites zoned for nonresidential use that allows  
24 residential development.  
25 (3) Residentially zoned sites that are capable of being  
26 developed at a higher density.  
27 (4) Sites zoned for nonresidential use that can be redeveloped  
28 for, and as necessary, rezoned for, residential use.

29 (b) The inventory of land shall include all of the following:

- 30 (1) A listing of properties by parcel number or other unique  
31 reference.  
32 (2) The size of each property listed pursuant to paragraph (1),  
33 and the general plan designation and zoning of each property.  
34 (3) For nonvacant sites, a description of the existing use of  
35 each property.  
36 (4) A general description of any environmental constraints to  
37 the development of housing within the jurisdiction, the  
38 documentation for which has been made available to the  
39 jurisdiction. This information need not be identified on a  
40 site-specific basis.

(5) A general description of existing or planned water, sewer, and other dry utilities supply, including the availability and access to distribution facilities. This information need not be identified on a site-specific basis.

(6) Sites identified as available for housing for above-moderate income households in areas not served by public sewer systems. This information need not be identified on a site-specific basis.

(7) A map that shows the location of the sites included in the inventory, such as the land use map from the jurisdiction's general plan for reference purposes only.

(c) Based on the information provided in subdivision (b), a city or county shall determine whether each site in the inventory can accommodate some portion of its share of the regional housing need by income level during the planning period, as determined pursuant to Section 65584. The analysis shall determine whether the inventory can provide for a variety of types of housing, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, emergency shelters, and transitional housing. The city or county shall determine the number of housing units that can be accommodated on each site as follows:

~~(1) If~~

*(1) For a site within a housing opportunity plan, the total housing unit capacity on that site shall be based on the established minimum density.*

*(2) For a site not within a housing opportunity plan, if local law or regulations require the development of a site at a minimum density, the department shall accept the planning agency's calculation of the total housing unit capacity on that site based on the established minimum density the total housing unit capacity on that site shall be based on the established minimum density. If the city or county does not adopt a law or regulations requiring the development of a site at a minimum density, then it shall demonstrate how the number of units determined for that site pursuant to this subdivision will be accommodated.*

~~(2)~~

*(3) The number of units calculated pursuant to paragraph (1) shall be adjusted as necessary, based on the land use controls and*



1 site improvements requirement identified in paragraph (4) of  
2 subdivision ~~(a)~~ (b) of Section 65583.

3 ~~(3) For the number of units calculated to accommodate its~~  
4 ~~share of the regional housing need for lower income households~~  
5 ~~pursuant to paragraph (2), a city or county shall do either of the~~  
6 ~~following:~~

7 ~~(A) Provide an analysis demonstrating how the adopted~~  
8 ~~densities accommodate this need. The analysis shall include, but~~  
9 ~~is not limited to, factors such as market demand, financial~~  
10 ~~feasibility, or information based on development project~~  
11 ~~experience within a zone or zones that provide housing for lower~~  
12 ~~income households.~~

13 ~~(B)~~

14 (d) The following densities shall be deemed appropriate to  
15 accommodate housing for lower income households:

16 (i)

17 (1) For incorporated cities within nonmetropolitan counties  
18 and for nonmetropolitan counties that have micropolitan areas:  
19 sites allowing at least 15 units per acre.

20 (ii)

21 (2) For unincorporated areas in all nonmetropolitan counties  
22 not included in ~~clause (i) paragraph (1)~~: sites allowing at least 10  
23 units per acre.

24 (iii)

25 (3) For suburban jurisdictions: sites allowing at least 20 units  
26 per acre.

27 (iv)

28 (4) For jurisdictions in metropolitan counties: sites allowing at  
29 least 30 units per acre.

30 ~~(d)~~

31 (e) For purposes of this section, metropolitan counties,  
32 nonmetropolitan counties, and nonmetropolitan counties with  
33 micropolitan areas are as determined by the United States Census  
34 Bureau. Nonmetropolitan counties with micropolitan areas  
35 include the following counties: Del Norte, Humboldt, Lake  
36 Mendocino, Nevada, Tehama, and Tuolumne and ~~such~~ other  
37 counties as may be determined by the United States Census  
38 Bureau to be nonmetropolitan counties with micropolitan areas in  
39 the future.

40 ~~(e)~~

(f) A jurisdiction is considered suburban if the jurisdiction does not meet the requirements of ~~clauses (i) and (ii) of subparagraph (B) of paragraph (3)~~ *paragraphs (1) and (2)* of subdivision ~~(e)~~ (d) and is located in a Metropolitan Statistical Area (MSA) of less than 2,000,000 in population, unless that jurisdiction's population is greater than 100,000, in which case it is considered metropolitan. Counties, not including the City and County of San Francisco, will be considered suburban unless they are in a MSA of 2,000,000 or greater in population in which case they are considered metropolitan.

(g) A jurisdiction is considered metropolitan if the jurisdiction does not meet the requirements for "suburban area" above and is located in a MSA of 2,000,000 or greater in population, unless that jurisdiction's population is less than 25,000 in which case it is considered suburban.

~~(g)~~  
(h) For sites described in paragraph (3) of subdivision (b) the city or county shall specify the additional development potential for each site within the planning period and shall provide an explanation of the methodology used to determine the development potential. The methodology shall consider factors including the extent to which existing uses may constitute an impediment to additional residential development, development trends, market conditions, and regulatory or other incentives or standards to encourage additional residential development on these sites.

~~(h)~~  
(i) The program required by ~~subparagraph~~ *subparagraphs (A) and (B)* of paragraph (1) of subdivision ~~(e)~~ (d) of Section 65583 shall accommodate 100 percent of the need for housing for very low and low-income households allocated pursuant to Section 65584 for which site capacity has not been identified in the inventory of sites pursuant to paragraph (3) of subdivision (a) on sites that shall be zoned to permit owner-occupied and rental multifamily residential use by right during the planning period. These sites shall be zoned with minimum density and development standards that permit at least 16 units per site at a density of at least 16 units per acre in jurisdictions described in ~~clause (i) of subparagraph (B) of paragraph (3)~~ (1) of subdivision

~~(e)~~ (d) and at least 20 units per acre in jurisdictions described in clauses (iii) and (iv) of subparagraph (B) of paragraph paragraphs (3) and (4) of subdivision ~~(e)~~ (d). At least 50 percent of the very low and low-income housing need shall be accommodated on sites designated for residential use and for which nonresidential uses or mixed-uses are not permitted.

(i)

(j) For purposes of this section and Section 65583, the phrase “use by right” shall mean that the local government’s review of the owner-occupied or multifamily residential use may not require a conditional use permit, planned unit development permit, or other discretionary local government review or approval that would constitute a “project” for purposes of Division 13 (commencing with Section 21100) of the Public Resources Code. Any subdivision of the sites shall be subject to all laws, including, but not limited to, the local government ordinance implementing the Subdivision Map Act. A local ordinance may provide that “use by right” does not exempt the use from design review. However, that design review shall not constitute a “project” for purposes of Division 13 (commencing with Section 21100) of the Public Resources Code. Use by right for all rental multifamily residential housing shall be provided in accordance with subdivision (f) of Section 65589.5.

SEC. 11. Section 65584 of the Government Code is amended to read:

65584. (a) (1) ~~For the fourth and subsequent revisions of the housing element pursuant to Section 65588, the department shall determine the existing and projected need for housing for each region pursuant to this article. For the next revision of the housing element pursuant to Section 65588, and each revision thereafter, each local government shall amend its general plan to accommodate its share of the regional housing need determined pursuant to this section and Section 65584.01, and to ensure each local government is responsible for at least planning to take care of its own. Amendment of the general plan for this purpose shall include the housing and land use elements in particular, and shall designate sufficient land for residential use with capacity for development of housing adequate to accommodate projected population and employment growth for a period of 20 years and to accommodate a projected need for housing~~

1 *development for not less than 10 years within a housing*  
2 *opportunity.* For purposes of subdivision—(a) (b) of Section  
3 65583, the share of a city or county of the regional housing need  
4 shall include that share of the housing need of persons at all  
5 income levels within the area significantly affected by the  
6 general plan of the city or county.

7 (2) While it is the intent of the Legislature that cities, counties,  
8 and cities and counties should undertake all necessary actions to  
9 encourage, promote, and facilitate the development of housing to  
10 accommodate the entire regional housing need, it is recognized,  
11 however, that future housing production may not equal the  
12 regional housing need established for planning purposes.

13 (b) ~~The department share of the regional housing needs for the~~  
14 *cities and counties within each region shall be set forth in a*  
15 *regional housing needs allocation plan adopted by the*  
16 *appropriate council of governments. The total regional housing*  
17 *need for each region shall be subject to the review process*  
18 *established by Section 65584.01. Each council of governments, in*  
19 *consultation with—each council of governments its local*  
20 *government members,* shall determine each region's existing and  
21 projected housing need pursuant to Section 65584.01 at least two  
22 years prior to the scheduled revision required pursuant to Section  
23 65588. The appropriate council of governments, or for cities and  
24 counties without a council of governments, the department, shall  
25 adopt a final regional housing need plan that allocates a share of  
26 the regional housing need to each city, county, or city and county  
27 at least one year prior to the scheduled revision for the region  
28 required by Section 65588. The allocation plan prepared by a  
29 council of governments shall be prepared pursuant to Sections  
30 65584.04 and 65584.05 with the advice of the department.

31 (c) Notwithstanding any other provision of law, the due dates  
32 for the determinations of the department or for the councils of  
33 governments, respectively, regarding the regional housing need  
34 may be extended by the department by not more than 60 days if  
35 the extension will enable access to more recent critical  
36 population or housing data from a pending or recent release of  
37 the United States Census Bureau or the Department of Finance. If  
38 the due date for the determination of the department or the  
39 council of governments is extended for this reason, the  
40 department shall extend the corresponding housing element

1 revision deadline pursuant to Section 65588 by not more than 60  
2 days.

3 (d) *The regional housing needs allocation plan shall be*  
4 *developed using a transparent planning process that ensures*  
5 *opportunity for public participation and adequate notice of*  
6 *determination of projected housing need. To promote higher*  
7 *density development and satisfy the need for zoning sufficient*  
8 *land to accommodate the housing needs of very low, low-, and*  
9 *moderate-income households, the regional housing needs*  
10 *allocation plan shall require that at least 40 percent of the site*  
11 *capacity identified to address the region's overall 10-year*  
12 *housing need to be accommodated on sites zoned to allow a*  
13 *specified minimum number of units per acre as identified in*  
14 *subdivision (d) of Section 65583.2. The council of governments*  
15 *shall determine and allocate each individual jurisdiction's share*  
16 *of this requirement.*

17 (e) The regional housing needs allocation plan shall be  
18 consistent with all of the following objectives:

19 (1) Increasing the housing supply and the mix of housing  
20 types, tenure, and affordability in all cities and counties within  
21 the region in an equitable manner, which shall result in each  
22 jurisdiction receiving an allocation of units for low and very low  
23 income households.

24 (2) Promoting infill development and socioeconomic equity,  
25 the protection of environmental and agricultural resources, and  
26 the encouragement of efficient development patterns.

27 (3) Promoting an improved intraregional relationship between  
28 jobs and housing.

29 (4) *Establishing an obligation that each local government at*  
30 *least plan to take care of its own, as defined in subdivision (g) of*  
31 *Section 65582.*

32 (5) Allocating a lower proportion of housing need to an  
33 income category when a jurisdiction already has a  
34 disproportionately high share of households in that income  
35 category, as compared to the countywide distribution of  
36 households in that category from the most recent decennial  
37 United States census.

38 ~~(e)~~

39 (f) *The regional housing need shall accommodate projected*  
40 *population and employment growth for a period of 10 and 20*

1 years. For the first 10 years, commencing January 1, 2007, job  
2 projections may not be reduced for any local government from  
3 the most recent local and regional plan or report. The regional  
4 housing needs allocation process shall establish mechanisms to  
5 allow interjurisdictional agreements to transfer obligations for  
6 accommodating regional housing needs between neighboring  
7 jurisdictions.

8 (g) The regional housing needs established by this section and  
9 Section 65584.01 shall constitute the minimum housing need for  
10 the planning period. However, nothing in this section shall be  
11 construed to prohibit a local government from planning to  
12 accommodate more housing and jobs consistent with other  
13 planning goals and objectives.

14 (h) For purposes of this section, “household income levels” are  
15 as determined by the department as of the most recent decennial  
16 census pursuant to the following code sections:

17 (1) Very low incomes, as defined by Section 50105 of the  
18 Health and Safety Code.

19 (2) Lower incomes, as defined by Section 50079.5 of the  
20 Health and Safety Code.

21 (3) Moderate incomes, as defined by Section 50093 of the  
22 Health and Safety Code.

23 (4) Above moderate incomes are those exceeding the moderate  
24 income level of Section 50093 of the Health and Safety Code.

25 (f)

26 (i) Notwithstanding any other provision of law, determinations  
27 made by the department, a council of governments, or a city or  
28 county pursuant to this section or Section 65584.01, 65584.02,  
29 65584.03, 65584.04, 65584.05, 65584.06, or 65584.07 are  
30 exempt from the California Environmental Quality Act (Division  
31 13 (commencing with Section 21000) of the Public Resources  
32 Code).

33 SEC. 12. Section 65584.01 of the Government Code is  
34 amended to read:

35 65584.01. (a) ~~For the fourth and subsequent revision of the~~  
36 ~~housing element pursuant to Section 65588, next revision of the~~  
37 ~~housing element pursuant to Section 65588, each council of~~  
38 ~~governments and the department, in consultation with each~~  
39 ~~council of governments, where applicable for regions without a~~  
40 ~~council of governments,~~ shall determine the existing and

1 projected need for housing for each region in the following  
2 manner:

3 (b) ~~The department's council of governments'~~ determination  
4 shall be based upon population projections produced by the  
5 Department of Finance and regional population forecasts used in  
6 preparing *its* regional transportation plans, ~~in consultation with~~  
7 ~~each council of governments~~. *The council of governments shall*  
8 *submit its population forecast to a demographic data review*  
9 *panel that shall consist of representatives of the Department of*  
10 *Finance, the department, the Governor's Office of Planning and*  
11 *Research, and the Employment Development Department for*  
12 *review and comment. If, after taking into consideration the*  
13 *comments of the demographic data review panel, the total*  
14 *regional population forecast for the planning period, developed*  
15 *by the council of governments and used for the preparation of the*  
16 *regional transportation plan, is within a range of 3 4 percent of*  
17 *the total regional population forecast for the planning period over*  
18 *the same time period by the Department of Finance, then the*  
19 *population forecast developed by the council of governments*  
20 *shall be the basis from which the department determines the*  
21 *existing and projected need for housing in the region is*  
22 *determined. If the difference between the total population growth*  
23 *projected by the council of governments and the total population*  
24 *growth projected for the region by the Department of Finance is*  
25 *greater than 3 4 percent, then the department demographic data*  
26 *review panel and the council of governments shall meet to*  
27 *discuss variances in methodology used for population projections*  
28 *and seek agreement on a population projection for the region to*  
29 *be used as a basis for determining the existing and projected*  
30 *housing need for the region. If no agreement is reached, then the*  
31 *population projection for the region shall be the population*  
32 *projection for the region prepared by the Department of Finance*  
33 *as may be modified by the department as a result of discussions*  
34 *with the council of governments.*

35 (c) (1) At least 26 months prior to the scheduled revision  
36 pursuant to Section 65588 and prior to developing the existing  
37 and projected housing need for a region, ~~the department each~~  
38 *council of governments shall meet and consult with the council of*  
39 *governments department* regarding the assumptions and  
40 methodology to be used ~~by the department~~ to determine the

1 region's *existing and projected* housing needs. The council of  
2 governments shall provide data assumptions ~~from proposed to be~~  
3 *used for* the council's projections of the total regional housing  
4 need, including, if available, the following data for the region:

5 (A) Anticipated household growth associated with projected  
6 population increases.

7 (B) Household size data and trends in household size.

8 (C) The rate of household formation, or headship rates, based  
9 on age, gender, ethnicity, or other established demographic  
10 measures.

11 (D) The vacancy rates in existing housing stock, and the  
12 vacancy rates for healthy housing market functioning and  
13 regional mobility, as well as housing replacement needs.

14 (E) Other characteristics of the composition of the projected  
15 population.

16 ~~(2) The department may accept or reject the information~~  
17 ~~provided by the council of governments or modify its own~~  
18 ~~assumptions or methodology based on this information. After~~  
19 ~~consultation with the council of governments, the department, the~~  
20 ~~council of governments~~ shall make determinations in writing on  
21 the assumptions for each of the factors listed in subparagraphs  
22 (A) to (E), inclusive, of paragraph (1) and the methodology it  
23 shall use and shall provide these determinations to the ~~council of~~  
24 ~~governments~~ department.

25 ~~(d) (1) After consultation with the council of governments,~~  
26 ~~the department~~ The council of governments shall make a  
27 determination of the region's existing and projected housing need  
28 based upon the assumptions and methodology determined  
29 pursuant to subdivision (c). ~~Within 30 days following notice of~~  
30 ~~the determination from the department, the council of~~  
31 ~~governments may file an objection to the department's~~  
32 ~~determination of the region's existing and projected housing need~~  
33 ~~with the department. The council of governments shall submit its~~  
34 ~~determination to the department. Within 45 days of the submittal,~~  
35 ~~the department shall provide comments, including any~~  
36 ~~objections, to the council of governments.~~

37 (2) The objection shall be based on and substantiate either of  
38 the following:

39 (A) ~~The department~~ council of governments failed to base its  
40 determination on the population projection for the region



1 established pursuant to subdivision (b), and shall identify the  
2 population projection ~~which~~ *that* the council of governments  
3 believes should instead be used for the determination and explain  
4 the basis for its rationale.

5 (B) The regional housing need determined by the ~~department~~  
6 *council of governments* is not a reasonable application of the  
7 methodology and assumptions determined pursuant to  
8 subdivision (c). The objection shall include a proposed  
9 alternative determination of ~~its~~ *the* regional housing need based  
10 upon the determinations made in subdivision (c), including  
11 analysis of why the proposed alternative would be a more  
12 reasonable application of the methodology and assumptions  
13 determined pursuant to subdivision (c).

14 (3) ~~If a council of governments the department files an~~  
15 ~~objection pursuant to this subdivision and includes with the~~  
16 ~~objection a proposed alternative determination of its regional~~  
17 ~~housing need, it shall also include documentation of its basis for~~  
18 ~~the alternative determination. Within 45 days of receiving an~~  
19 ~~objection filed pursuant to this section, the council of~~  
20 ~~governments and the department shall consider the objection and~~  
21 ~~make a final written determination of the region's existing and~~  
22 ~~projected housing need that includes an explanation of the~~  
23 ~~information upon which the determination was made. meet to~~  
24 ~~attempt to reconcile their differences during a 30-day period. If~~  
25 ~~no agreement is reached, then the matter shall be submitted to~~  
26 ~~arbitration by an academic demographer appointed by the~~  
27 ~~Department of Finance within 30 days. The arbitrator shall meet~~  
28 ~~with the parties and within 45 days review all relevant data and~~  
29 ~~issue a final housing needs determination for the region that~~  
30 ~~shall carry the presumption of validity in any court action. Any~~  
31 ~~challenge to the determination must be made within 45 days.~~

32 SEC. 13. Section 65584.02 of the Government Code is  
33 amended to read:

34 65584.02. (a) For the fourth and subsequent revisions of the  
35 housing element pursuant to Section 65588, the existing and  
36 projected need for housing may be determined for each region ~~by~~  
37 ~~the department~~ as follows, as an alternative to the process  
38 pursuant to Section 65584.01:

39 (1) In a region in which at least one subregion has accepted  
40 delegated authority pursuant to Section 65584.03, the region's

1 housing need shall be determined at least 26 months prior to the  
2 housing element update deadline pursuant to Section 65588. In a  
3 region in which no subregion has accepted delegation pursuant to  
4 Section 65584.03, the region's housing need shall be determined  
5 at least 24 months prior to the housing element deadline.

6 (2) At least six months prior to the department's determination  
7 of regional housing need pursuant to paragraph (1), a council of  
8 governments may request the use of population and household  
9 forecast assumptions used in the regional transportation plan. For  
10 a housing element update due date pursuant to Section 65588 that  
11 is prior to January 2007, the department may approve a request  
12 that is submitted prior to December 31, 2004, notwithstanding  
13 the deadline in this paragraph. This request shall include all of  
14 the following:

15 (A) Proposed data and assumptions for factors contributing to  
16 housing need beyond household growth identified in the forecast.  
17 These factors shall include allowance for vacant or replacement  
18 units, and may include other adjustment factors.

19 (B) A proposed planning period that is not longer than the  
20 period of time covered by the regional transportation  
21 improvement plan or plans of the region pursuant to Section  
22 14527, ~~but a period not less than five years, and not longer than~~  
23 ~~six years consistent with the 10- and 20-year projections~~  
24 ~~required by Section 65584.~~

25 (C) A comparison between the population and household  
26 assumptions used for the Regional Transportation Plan with  
27 population and household estimates and projections of the  
28 Department of Finance.

29 The council of governments may include a request to extend  
30 the housing element deadline pursuant to Section 65588 to a date  
31 not to exceed two years, for the purpose of coordination with the  
32 scheduled update of a regional transportation plan pursuant to  
33 federal law.

34 (b) The department shall consult with the council of  
35 governments regarding requests submitted pursuant to paragraph  
36 (2) of subdivision (a). The department may seek advice and  
37 consult with the Demographic Research Unit of the Department  
38 of Finance, the State Department of Transportation, a  
39 representative of a contiguous council of governments, and any  
40 other party as deemed necessary. The department may request

1 that the council of governments revise data, assumptions, or  
2 methodology to be used for the determination of regional housing  
3 need, or may reject the request submitted pursuant to paragraph  
4 (2) of subdivision (a). Subsequent to consultation with the  
5 council of governments, the department will respond in writing  
6 to requests submitted pursuant to paragraph (1) of subdivision  
7 (a).

8 (c) If the council of governments does not submit a request  
9 pursuant to subdivision (a), or if the department rejects the  
10 request of the council of governments, the determination for the  
11 region shall be made pursuant to Sections 65584 and 65584.01.

12 SEC. 14. Section 65584.04 of the Government Code is  
13 amended to read:

14 65584.04. (a) At least two years prior to a scheduled revision  
15 required by Section 65588, each council of governments, or  
16 delegate subregion as applicable, shall develop a proposed  
17 methodology for distributing the existing and projected regional  
18 housing need to cities, counties, and cities and counties within  
19 the region or within the subregion, where applicable pursuant to  
20 this section. The methodology shall be consistent with the  
21 objectives listed in subdivision ~~(d)~~ (e) of Section 65584.

22 (b) (1) No more than six months prior to the development of a  
23 proposed methodology for distributing the existing and projected  
24 housing need, each council of governments shall survey each of  
25 its member jurisdictions to request, at a minimum, information  
26 regarding the factors listed in subdivision (d) that will allow the  
27 development of a methodology based upon the factors  
28 established in subdivision (d).

29 (2) The council of governments shall seek to obtain the  
30 information in a manner and format that is comparable  
31 throughout the region and utilize readily available data to the  
32 extent possible.

33 (3) The information provided by a local government pursuant  
34 to this section shall be used, to the extent possible, by the council  
35 of governments, or delegate subregion as applicable, as source  
36 information for the methodology developed pursuant to this  
37 section. The survey shall state that none of the information  
38 received may be used as a basis for reducing the total housing  
39 need established for the region pursuant to Section 65584.01.

(4) If the council of governments fails to conduct a survey pursuant to this subdivision, a city, county, or city and county may submit information related to the items listed in subdivision (d) prior to the public comment period provided for in subdivision (c).

(c) Public participation and access shall be required in the development of the methodology and in the process of drafting and adoption of the allocation of the regional housing needs. Participation by organizations other than local jurisdictions and councils of governments shall be solicited in a diligent effort to achieve public participation of all economic segments of the community. The proposed methodology, along with any relevant underlying data and assumptions, and an explanation of how information about local government conditions gathered pursuant to subdivision (b) has been used to develop the proposed methodology, and how each of the factors listed in subdivision (d) is incorporated into the methodology, shall be distributed to all cities, counties, any subregions, and members of the public who have made a written request for the proposed methodology. The council of governments, or delegate subregion, as applicable, shall conduct at least one public hearing to receive oral and written comments on the proposed methodology.

(d) To the extent that sufficient data is available from local governments pursuant to subdivision (b) or other sources, each council of governments, or delegate subregion as applicable, shall include the following factors to develop the methodology that allocates regional housing needs:

(1) *Sufficient for each member jurisdiction to be responsible for accommodating at least its own natural population increases and job generation.*

(2) Each member jurisdiction's existing and projected jobs and housing relationship.

~~(2)~~

(3) The opportunities and constraints to development of additional housing in each member jurisdiction, including all of the following:

(A) Lack of capacity for sewer or water service due to federal or state laws, regulations or regulatory actions, or supply and distribution decisions made by a sewer or water service provider other than the local jurisdiction that preclude the jurisdiction

1 from providing necessary infrastructure for additional  
2 development during the planning period.

3 (B) The availability of land suitable for urban development or  
4 for conversion to residential use, the availability of underutilized  
5 land, and opportunities for infill development and increased  
6 residential densities. The council of governments may not limit  
7 its consideration of suitable housing sites or land suitable for  
8 urban development to existing zoning ordinances and land use  
9 restrictions of a locality, but shall consider the potential for  
10 increased residential development under alternative zoning  
11 ordinances and land use restrictions.

12 (C) Lands preserved or protected from urban development  
13 under existing federal or state programs, or both, designed to  
14 protect open space, farmland, environmental habitats, and natural  
15 resources on a long-term basis.

16 (D) County policies to preserve prime agricultural land, as  
17 defined pursuant to Section 56064, within an unincorporated  
18 area.

19 ~~(3)~~

20 (4) The distribution of household growth assumed for  
21 purposes of a comparable period of regional transportation plans  
22 and opportunities to maximize the use of public transportation  
23 and existing transportation infrastructure.

24 ~~(4)~~

25 (5) The market demand for housing.

26 ~~(5)~~

27 (6) Agreements between a county and cities in a county to  
28 direct growth toward incorporated areas of the county.

29 ~~(6)~~

30 (7) The loss of units contained in assisted housing  
31 developments, as defined in paragraph~~(8)~~ (7) of subdivision~~(a)~~  
32 *(b)* of Section 65583, that changed to non-low-income use  
33 through mortgage prepayment, subsidy contract expirations, or  
34 termination of use restrictions.

35 ~~(7)~~

36 (8) High housing costs burdens.

37 ~~(8)~~

38 (9) The housing needs of farmworkers.

39 *(10) Adopted spheres of influence for each city and county in*  
40 *the region.*

1     (11) *Local agency formation commission policies relating to*  
2     *logical and orderly growth patterns in the region.*

3     ~~(9)~~

4     (11) Any other factors adopted by the council of governments.

5     (e) The council of governments, or delegate subregion, as  
6     applicable, shall explain in writing how each of the factors  
7     described in subdivision (d) was incorporated into the  
8     methodology and how the methodology is consistent with  
9     subdivision~~-(d)~~ (e) of Section 65584. The methodology may  
10    include numerical weighting.

11    (f) Any ordinance, policy, voter-approved measure, or  
12    standard of a city or county that directly or indirectly limits the  
13    number of residential building permits issued by a city or county  
14    shall not be a justification for a determination or a reduction in  
15    the share of a city or county of the regional housing need.

16    (g) In addition to the factors identified pursuant to subdivision  
17    (d), the council of governments, or delegate subregion, as  
18    applicable, shall identify any existing local, regional, or state  
19    incentives, such as a priority for funding or other incentives  
20    available to those local governments that are willing to accept a  
21    higher share than proposed in the draft allocation to those local  
22    governments by the council of governments or delegate  
23    subregion pursuant to Section 65584.05.

24    (h) Following the conclusion of the 60-day public comment  
25    period described in subdivision (c) on the proposed allocation  
26    methodology, and after making any revisions deemed appropriate  
27    by the council of governments, or delegate subregion, as  
28    applicable, as a result of comments received during the public  
29    comment period, each council of governments, or delegate  
30    subregion, as applicable, shall adopt a final regional, or  
31    subregional, housing need allocation methodology and provide  
32    notice of the adoption of the methodology to the jurisdictions  
33    within the region, or delegate subregion as applicable, and to the  
34    department.

35    SEC. 15. Section 65584.07 of the Government Code is  
36    amended to read:

37    65584.07. (a) During the period between adoption of a final  
38    regional housing needs allocation until the due date of the  
39    housing element update pursuant to Section 65588, the council of  
40    governments, or the department, whichever assigned the county's

1 share, shall reduce the share of regional housing needs of a *city*  
2 *or* county if all of the following conditions are met:

3 (1) One or more ~~cities~~ *local governments* within ~~the~~ *a* county  
4 *or housing market area* agree to increase its share or their shares  
5 in an amount equivalent to the reduction, *so that the total*  
6 *regional housing need is maintained.*

7 (2) The transfer of shares shall only occur between ~~a county~~  
8 ~~and cities~~ *local governments* within ~~that~~ *the same* county *or*  
9 *housing market area.*

10 ~~(3) The county's share of low-income and very low income~~  
11 ~~housing shall be reduced only in proportion to the amount by~~  
12 ~~which the county's share of moderate- and above~~  
13 ~~moderate-income housing is reduced.~~

14 ~~(4)~~  
15 (3) The council of governments or the department, whichever  
16 assigned the county's share, shall approve the proposed  
17 reduction, ~~if it determines the proposed transfer request~~  
18 ~~demonstrates~~ that the conditions set forth in paragraphs (1); *and*  
19 ~~(2); and (3) above have been satisfied. The county and city or~~  
20 ~~cities proposing the transfer shall submit an analysis of the factors~~  
21 ~~and circumstances, with all supporting data, justifying the~~  
22 ~~revision to the council of governments or the department. The~~  
23 council of governments shall submit a copy of its decision  
24 regarding the proposed reduction to the department *prior to the*  
25 *execution of any transfer of shares.*

26 (b) The county and cities ~~which~~ *that* have executed transfers of  
27 regional housing need pursuant to this section shall amend their  
28 housing elements and submit them to the department for review  
29 pursuant to Section 65585.

30 All materials and data used to justify any revision shall be  
31 made available upon request to any interested party within seven  
32 days upon payment of reasonable costs of reproduction unless the  
33 costs are waived due to economic hardship. A fee may be  
34 charged to interested parties for any additional costs caused by  
35 the amendments made to former subdivision (c) of Section 65584  
36 that reduced from 45 to 7 days the time within which materials  
37 and data were required to be made available to interested parties.

38 (c) In the event an incorporation of a new city occurs after the  
39 council of governments, or the department for areas with no  
40 council of governments, has made its final allocation under this

1 section, the city and county may reach a mutually acceptable  
2 agreement on a revised determination and report the revision to  
3 the council of governments and the department, or to the  
4 department for areas with no council of governments. If the  
5 affected parties cannot reach a mutually acceptable agreement,  
6 then either party may request the council of governments, or the  
7 department for areas with no council of governments, to consider  
8 the facts, data, and methodology presented by both parties and  
9 make the revised determination.

10 The revised determination shall be made within one year of the  
11 incorporation of the new city based upon the methodology  
12 described in subdivision (a) and shall reallocate a portion of the  
13 affected county's share of regional housing needs to the new city.  
14 The revised determination shall neither reduce the total regional  
15 housing needs nor change the previous allocation of the regional  
16 housing needs assigned by the council of governments or the  
17 department, ~~where there is~~ *for areas with* no council of  
18 governments, to other cities within the affected county.

19 SEC. 16. Section 65588 of the Government Code is repealed.

20 ~~65588. (a) Each local government shall review its housing~~  
21 ~~element as frequently as appropriate to evaluate all of the~~  
22 ~~following:~~

23 ~~(1) The appropriateness of the housing goals, objectives, and~~  
24 ~~policies in contributing to the attainment of the state housing~~  
25 ~~goal.~~

26 ~~(2) The effectiveness of the housing element in attainment of~~  
27 ~~the community's housing goals and objectives.~~

28 ~~(3) The progress of the city, county, or city and county in~~  
29 ~~implementation of the housing element.~~

30 ~~(b) The housing element shall be revised as appropriate, but~~  
31 ~~not less than every five years, to reflect the results of this~~  
32 ~~periodic review.~~

33 ~~(c) The review and revision of housing elements required by~~  
34 ~~this section shall take into account any low- or moderate-income~~  
35 ~~housing provided or required pursuant to Section 65590.~~

36 ~~(d) The review pursuant to subdivision (c) shall include, but~~  
37 ~~need not be limited to, the following:~~

38 ~~(1) The number of new housing units approved for~~  
39 ~~construction within the coastal zone after January 1, 1982.~~



1     ~~(2) The number of housing units for persons and families of~~  
2     ~~low or moderate income, as defined in Section 50093 of the~~  
3     ~~Health and Safety Code, required to be provided in new housing~~  
4     ~~developments either within the coastal zone or within three miles~~  
5     ~~of the coastal zone pursuant to Section 65590.~~

6     ~~(3) The number of existing residential dwelling units occupied~~  
7     ~~by persons and families of low or moderate income, as defined in~~  
8     ~~Section 50093 of the Health and Safety Code, that have been~~  
9     ~~authorized to be demolished or converted since January 1, 1982,~~  
10    ~~in the coastal zone.~~

11    ~~(4) The number of residential dwelling units for persons and~~  
12    ~~families of low or moderate income, as defined in Section 50093~~  
13    ~~of the Health and Safety Code, that have been required for~~  
14    ~~replacement or authorized to be converted or demolished as~~  
15    ~~identified in paragraph (3). The location of the replacement units,~~  
16    ~~either onsite, elsewhere within the locality's jurisdiction within~~  
17    ~~the coastal zone, or within three miles of the coastal zone within~~  
18    ~~the locality's jurisdiction, shall be designated in the review.~~

19    ~~(e) Notwithstanding subdivision (b) or the date of adoption of~~  
20    ~~the housing elements previously in existence, the dates of~~  
21    ~~revisions for the housing element shall be modified as follows:~~

22    ~~(1) Local governments within the regional jurisdiction of the~~  
23    ~~Southern California Association of Governments: December 31,~~  
24    ~~2000, for the third revision, and June 30, 2006, for the fourth~~  
25    ~~revision.~~

26    ~~(2) Local governments within the regional jurisdiction of the~~  
27    ~~Association of Bay Area Governments: December 31, 2001, for~~  
28    ~~the third revision, and June 30, 2007, for the fourth revision.~~

29    ~~(3) Local governments within the regional jurisdiction of the~~  
30    ~~Council of Fresno County Governments, the Kern County~~  
31    ~~Council of Governments, and the Sacramento Area Council of~~  
32    ~~Governments: June 30, 2002, for the third revision, and June 30,~~  
33    ~~2008, for the fourth revision.~~

34    ~~(4) Local governments within the regional jurisdiction of the~~  
35    ~~Association of Monterey Bay Area Governments: December 31,~~  
36    ~~2002, for the third revision, and June 30, 2008, for the fourth~~  
37    ~~revision.~~

38    ~~(5) Local governments within the regional jurisdiction of the~~  
39    ~~San Diego Association of Governments: December 31, 1999, for~~

1 ~~the third revision cycle ending June 30, 1999, and June 30, 2005,~~  
2 ~~for the fourth revision.~~

3 ~~(6) All other local governments: December 31, 2003, for the~~  
4 ~~third revision, and June 30, 2009, for the fourth revision.~~

5 ~~(7) Subsequent revisions shall be completed not less often than~~  
6 ~~at five-year intervals following the fourth revision.~~

7 SEC. 17. Section 65588 is added to the Government Code, to  
8 read:

9 65588. (a) Each local government shall review its housing  
10 element as frequently as appropriate to evaluate the following:

11 (1) The effectiveness of the element including a review of the  
12 results of goals, objectives, policies, and programs from the prior  
13 planning period and an analysis of any difference between what  
14 was planned from the prior planning period and what was  
15 actually achieved.

16 (2) The appropriateness of the goals, objectives, and policies  
17 and programs of the updated element based on the analysis of the  
18 review of the results of the prior planning period. The goals,  
19 objectives, policies, and programs of the element should be  
20 revised to reflect the results of this review.

21 (b) The housing element shall be comprehensively updated  
22 every 10 years to, among other things, reflect the results of this  
23 periodic review and to incorporate the projected housing need.  
24 The land inventory and analyses of constraints shall be reviewed  
25 and updated every five years. The housing opportunity plan shall  
26 be reviewed and updated every five years as provided in Article  
27 9 (commencing with Section 65470). The land use element and  
28 other relevant portions of the general plan shall be revised as  
29 necessary to maintain consistency with the housing element.

30 (c) Notwithstanding subdivision (b) or the date of adoption of  
31 the housing element previously in existence, the date of revisions  
32 for the housing element shall be modified as follows:

33 (1) Local governments within the regional jurisdiction of the  
34 Southern California Association of Governments: \_\_\_\_.

35 (2) Local governments within the regional jurisdiction of the  
36 Association of Bay Area Governments: \_\_\_\_.

37 (3) Local governments within the regional jurisdiction of the  
38 Council of Fresno County Governments, the Kern County  
39 Council of Governments, and the Sacramento Area Council of  
40 Governments: \_\_\_\_.

1 (4) Local governments within the regional jurisdiction of the  
2 Association of Monterey Bay Area Governments: \_\_\_\_.

3 (5) Local governments within the regional jurisdiction of the  
4 San Diego Association of Governments: \_\_\_\_.

5 (6) All other local governments: \_\_\_\_.

6 (7) Subsequent comprehensive revisions shall be completed  
7 not less often than at 10-year intervals following these dates, with  
8 update reviews completed every five years.

9 SEC. 18. In connection with enacting the health or safety  
10 findings requirements of Article 9 (commencing with Section  
11 65470) added to Chapter 4 of Division 1 of Title 7 of the  
12 Government Code by Section 7 of this act, the Legislature finds  
13 and declares that the Court of Appeal opinion in *Mira*  
14 *Development Corporation v. City of San Diego* (1988) 205  
15 *Cal.App.3d 1201*, is inconsistent with the Legislature's intent that  
16 (a) the phrase "health or safety" be construed narrowly and (b)  
17 that substantial evidenced in support of a health or safety finding  
18 be of ponderable legal significance, reasonable in nature,  
19 credible, and of solid value in light of all of the evidence in the  
20 record.

21 SEC. 19. No reimbursement shall be made pursuant to Part 7  
22 (commencing with Section 17500) of Division 4 of Title 2 of the  
23 Government Code for costs mandated by the state pursuant to  
24 this act. It is recognized, however, that a local agency or school  
25 district may pursue any remedies to obtain reimbursement  
26 available to it under Part 7 (commencing with Section 17500)  
27 and any other provisions of law.